

Chapter 10 Contents:

I. Types of Disability Retirement	10-3
A. Presumptions	10-3
B. Involuntary Disability Retirement.....	10-5
II. Disability Retirement Application Procedure	10-6
III. Mistakes that Can Delay Disability Determination	10-8
IV. Effective Date of Disability Retirement	10-9
V. Creditable Service Unique to Disability Retirement	10-11
VI. Disability Benefits	10-12
VII. Denial of Application for Disability Retirement	10-13
VIII. Reapplication	10-14
IX. Reexamination	10-14
X. Recovery from Disability	10-15
XI. Cost-of-Living Increase	10-15
XII. Health Insurance Subsidy (HIS)	10-16
XIII. Disability Coverage for Investment Plan and Hybrid Members....	10-16

The Florida Retirement System provides disability coverage under Chapter 121, Florida Statutes, to afford an income to eligible members of the FRS Pension Plan and FRS Investment Plan who become totally and permanently disabled and are unable to work. The disability must be due to an illness or injury that occurred while the member was actively employed in an FRS covered position.

Disability benefits as described in this chapter are available to eligible members of the FRS Pension Plan and the FRS Investment Plan¹. While disability coverage is funded in a slightly different manner for FRS Investment Plan participants (see Page 10-16), both plans are subject to the same disability requirements and procedures as are described in this chapter. Disabled FRS Investment Plan members will become disability retirees of the FRS Pension Plan if they apply for and receive disability benefits under this chapter. However, if they later recover and return to covered employment, they will be reenrolled in the FRS Investment Plan.

¹ Provisions of this chapter do not apply to members in other state-administered retirement systems or programs (who may or may not have separate employer-provided disability coverage).

Eligibility for Disability Benefits

Disability coverage is available for active members of the FRS Pension Plan and FRS Investment Plan. (Reemployed retirees of either plan with renewed membership and participants of the Deferred Retirement Option Program are not eligible for disability benefits.)

To qualify for disability retirement under the FRS Pension Plan or FRS Investment Plan, the member must be totally and permanently disabled and be unable to work — that is, must be prevented by reason of a medically determinable physical or mental impairment from performing useful and efficient service as an officer or employee. The disabling injury or illness must have occurred or become symptomatic before the member terminated covered employment.

An employee who is physically or mentally unable to continue performing in the present occupation, but is able to perform another type of work or is temporarily disabled, will not qualify for disability benefits.

As of July 1, 2001, to qualify for regular disability retirement, a member of either plan must have completed at least eight years² of creditable service, regardless of the other vesting requirements for the member's membership class or plan³. Members are covered for in-line-of-duty disability from their first day of employment. Special in-line-of-duty presumptions may apply in the case of specified positions and diseases (see Page 10-3).

Nonadmissible Causes of Disability

The Florida Retirement System does not provide disability benefits if the disability was a result of the following:

- Illness or injury sustained by the member while willfully participating in a riot, civil insurrection, or any other act of violence, or while committing a felony.
- Injury or disease sustained by the member after terminating employment with an FRS employer.
- Intentional or self-inflicted injuries.

NOTE: FRS Pension Plan disability benefits differ from those of the older closed retirement systems. If the employee is still a member of the TRS or SCOERS, contact the Disability Determination Section for details of these system's disability benefits.

² A member who terminated FRS covered employment before July 1, 2001, and has not since been employed under the FRS, must have ten years of creditable service to qualify for regular disability retirement benefits based on a disability resulting from an injury or illness sustained during prior FRS employment because that member is still subject to the disability vesting law in effect before July 1, 2001.

³ If a member is vested for service retirement under the FRS Pension Plan, but has fewer than eight years of creditable service, the member may be eligible to purchase optional service credit to meet the vesting requirement for regular disability retirement, such as credit for an approved leave of absence, military service, in-state service or out-of-state public service. For members of the FRS Investment Plan, creditable service under both the Pension Plan and the Investment Plan may be combined to meet the eight-year-vesting requirement for disability retirement (however, Investment Plan members are not eligible to buy optional service credit).

I. TYPES OF DISABILITY RETIREMENT

Regular Disability

Disability arising from an illness or injury due to natural causes or an accident not related to the member's covered employment is known as "regular disability." To qualify for regular disability, the member must meet one of the following service requirements:

- The member must have completed at least eight years⁴ of creditable service; or
- If the FRS covered employment was terminated before July 1, 2001, the member must have completed at least ten years of creditable service by that date; or
- If the FRS membership date occurred before July 1, 1980, and the member had less than five years of creditable service on that date, the member must currently have at least five years of creditable service and may not have attained fully insured status under the Federal Social Security Act.

In-Line-of- Duty Disability

Special disability provisions apply in the case of an illness or injury that arises out of and during the performance of duties required by the employer during regular or irregular work hours. A member of the FRS Pension Plan or FRS Investment Plan is eligible for in-line-of-duty disability benefits from the first day of employment in a regularly established position.

A. PRESUMPTIONS

Presumed In-Line-of-Duty Disability

Under Florida law, specified diseases are presumed to arise from employment (unless proved otherwise), when contracted by persons in certain positions. When total and permanent disability results from such a disease and legal requirements are met, the disability is found to have been suffered in the line of duty and benefits are paid accordingly.

These presumptions and eligible positions are listed in section A., with applicable requirements. Required documentation should be submitted to the division at the time the member applies for in-line-of-duty disability.

Firefighters Disabled by Cancer

Under section 112.1816, Florida Statutes, the disability is presumed to have been suffered in the line of duty if the member is employed as a firefighter and is totally and permanently disabled due to one of 21 designated types of cancer or the circumstances arising out of the treatment of cancer. The effective date of retirement must be on or after July 1, 2019.

The employers must provide verification of the firefighter's full-time status and certify they meet the definition of employer for cancer presumption.

⁴ See footnote 3 on Page 10-2.

Firefighters, Law Enforcement, Correctional Officers Disabled by TB, Heart Disease, or Hypertension

Under section 112.18, Florida Statutes, the disability is presumed to have been suffered in the line of duty if the member is employed as a firefighter, law enforcement officer, or correctional officer and is totally and permanently disabled due to tuberculosis, heart disease, or hypertension.

To qualify for the presumption, the applicant must have successfully passed a pre-employment physical examination that failed to reveal any evidence of any such condition.

Firefighters, Paramedics, EMTs, Law Enforcement Officers, and Correctional Officers Disabled by Communicable Disease

Under section 112.181, Florida Statutes, disability is presumed to have been suffered in the line of duty if the member is a firefighter, paramedic, emergency medical technician, law enforcement officer, or correctional officer who is totally and permanently disabled due to hepatitis, meningococcal meningitis, or tuberculosis on or after January 1, 1996.

To qualify for the presumption:

1. The employee must meet the following requirements:
 - Before diagnosis, the employee must have successfully passed a physical examination that failed to reveal evidence of the communicable disease (except for meningococcal meningitis).
 - If available, the employee must have received a standard medically recognized vaccine, immunization, or prophylaxis for the prevention of such communicable disease (unless it would pose a significant health risk).
 - The employee must have filed an incident or accident report with the employer for each known or suspected exposure to the disease.
 - The employee must submit an affidavit attesting that the employee has not been exposed to the disease outside of employment. In addition, an employee with hepatitis must also attest that the employee has not had a blood transfusion, engaged in unsafe sexual practices or other high-risk behavior, or used intravenous drugs not prescribed by a physician.

NOTE: Failure to submit required documents will nullify the presumption of ILOD disability.

2. The employer must satisfy the following requirements:
 - The employer must maintain a record of any known or suspected exposure of an employee to any such communicable disease and must immediately notify the employee of any exposure.
 - The employer is responsible for notifying employees that vaccines are available (employees are responsible for actually getting the immunizations and boosters). To monitor existing and future vaccines or immunizations, employers should request that their local county health departments add them to their mailing list for Individual Topics Notifications produced by the Advisory Committee on Immunization Practices of the U.S. Public Health Service.

B. INVOLUNTARY DISABILITY RETIREMENT**Involuntary Disability Retirement of Justices and Judges**

Effective July 1, 2001, any justice or judge who has completed at least six years of service as an elected constitutional judicial officer (including service as a judicial officer in any court abolished pursuant to Article V of the State Constitution) and who is involuntarily retired by the Supreme Court due to disability, will receive a monthly benefit equal to two-thirds of the monthly salary under Option 1, adjusted by the applicable option factors if benefit payment Option 2, 3, or 4 is selected.

Any justice or judge who is initially enrolled in the FRS on or after July 1, 2011, who has completed at least eight years of service as an elected constitutional judicial officer (including service as a judicial officer in any court abolished pursuant to Article V of the State Constitution) and who is involuntarily retired by the Supreme Court due to disability, will receive a monthly benefit equal to two-thirds of the monthly salary under Option 1, adjusted by the applicable option factors if benefit payment Option 2, 3, or 4 is selected

STATUTORY REFERENCE:

Sections 112.18, 112.181, and 121.091(4), Florida Statutes

FRS RULE REFERENCE:

Section 60S-4.007, Florida Administrative Code

II. DISABILITY RETIREMENT APPLICATION PROCEDURE

Forms Required

To apply for disability benefits, the following application forms are available from the Division of Retirement. You may call the division toll-free at 844-377-1888 or 850-907-6500. Some forms are also available online⁵. The applicant must submit:

- Either [Form FR-13](#), FRS Application for Pension Plan Disability Retirement, or [Form PR-13](#), FRS Application for Investment Plan Disability Retirement, as applicable –The appropriate version of this form is to be completed by the member and signed in the presence of a Notary Public. The member’s effective date of retirement can depend in part on when the division receives this form. While other required forms and documents can be submitted later, the member should not delay in sending in this form.
- [Form FR-13a](#), Statement of Disability by Employer – This form should be completed and signed by a designated person in the member’s personnel office.
- [Form FR-13b](#), Physician’s Report of Disability (two forms) – In most cases, this form must be completed by two Florida-licensed physicians who currently treat the member. However, a member who fills a regularly established position with an FRS employer that requires him/her to work on a permanent basis in another state within the United States may obtain certification by two physicians licensed by the state where the member works. If a member does not meet these requirements, the division will have no choice but to deny the claim⁶. The information on these forms should be current to within 60 days of the termination date and the physicians should provide answers to all of the questions asked.
- Notice of Injury – This form must be submitted for all on-the-job injuries. If no workers’ compensation reports were filed, the member should submit an explanation of why a Notice of Injury was not filed and why the member considers the disability to be an in-line-of-duty disability. The division also needs a statement from the member’s supervisor as to why the supervisor considers the disabling illness or injury to have been suffered in the line of duty, plus a listing of the dates, times, and circumstances of each on-the-job illness or injury.

Review of Application

The Division of Retirement will review the member’s application and let him/her know if additional information is needed from the member, employer, or physicians. Once the required information has been received, the division will notify the member in writing as to whether the disability claim has been approved or denied.

⁵ Forms FR-13, FR-13a, and FR-13b may also be downloaded from the Forms page of the division’s website (accessed at: frs.myflorida.com).

⁶ If the member lives out of state but does not meet the criteria for out-of-state employment described above or has only one current physician, the member may have the current physician forward the member’s medical records to a former physician or associate licensed in Florida to complete and return this form to the division.

Additional Information May Be Required

The division may require additional information to determine the member's eligibility for disability benefits. Examples include:

- Personal interviews with the member, physician, or employer.
- An examination by a medical specialist.
- Personal interview by a rehabilitation nurse.
- [Form WC-1](#), Certification of Workers' Compensation – This form must be completed for cases where Workers' Compensation benefits were paid, showing the types of Workers' Compensation benefits received and the dates paid.

Documentation Required

The forms submitted must document that:

- The member's medical condition occurred or became symptomatic during the time the member was actively employed in a covered position (in an employee/employer relationship with the employer⁷);
- The member was totally and permanently disabled at the time the member terminated covered employment;
- The member has not been employed with any other employer since such termination; and
- If the application is for an in-line-of-duty disability retirement, it must be documented by competent medical evidence that the disability was caused by a job-related illness or accident that occurred while the member was in an employee/employer relationship with the employer.

NOTE: Proof of eligibility for Workers' Compensation or Social Security disability benefits may be used as supporting evidence in applying for disability benefits from the FRS. However, approval for Workers' Compensation or Social Security disability does not guarantee approval for FRS disability benefits. The FRS is a separate system with different requirements and criteria.

STATUTORY REFERENCE:

Section 121.091(4), Florida Statutes

FRS RULE REFERENCE:

Section 60S-4.007, Florida Administrative Code

⁷ If the member is on an approved leave of absence, whether paid or unpaid, the member is considered to be in an employer-employee relationship, including periods of approved annual, sick, or administrative leave.

Additional Documents May Be Needed

When a member's application for disability retirement is approved, both the member and the employer will receive written notice of any additional documents needed. Some of the most frequently requested documents are:

- Proof of age for the member (and for the joint annuitant if Option 3 or 4 is selected). (See Chapter 9, Part VI, for acceptable forms of birth date verification.)
- [Form FC-1](#), Salary Certification from the employer.
- [Form FRS-11o](#), Option Selection For FRS Pension Plan Members, or
- Form PR-11o, Investment Plan Option Selection, FRS Members – The member may wait until receiving an estimate of benefits before selecting an option.
- [Form FST-12](#), Beneficiary Designation Form (Retired Members Only) – This form is required when the member has failed to designate a beneficiary as part of the application process.
- Termination Document from the Employer. This document is required before an effective date of retirement can be established. The termination date should be the date the employer/employee relationship ends. Do not backdate the termination date. Acceptable termination documents include:
 1. A copy of a Request for Personnel Action Form or any similar form showing termination action.
 2. Copies of the employee's resignation letter and agency acceptance.
 3. In the absence of one of the above, the division will accept a statement on agency letterhead signed by an agency representative, giving the termination date of the member. A backdated termination date will not be accepted. A termination date indicated on [Form FC-1](#) is not an acceptable termination document.

III. MISTAKES THAT CAN DELAY DISABILITY DETERMINATION

Common Mistakes and Omissions

The following mistakes and omissions can delay a member's disability retirement:

- **Improperly Notarized Forms** – Check all forms requiring a notary public to be sure dates agree and notary information is complete.
- **Incomplete Physician's Reports** – If these forms are submitted through the agency, check the completed forms to make sure all areas are addressed and the report does not contain contradictory statements. Encourage the member to talk directly to the doctor and explain the importance of having complete information and the reason it is needed.
- **Incomplete Workers' Compensation Information** – The completed [Form WC-1](#) should include the types of compensation paid, dates paid, and the maximum medical improvement date. If maximum medical improvement has not been reached, this must be indicated. The applicant should also submit any supporting documents to show changes in Workers' Compensation payments or status.
- **Incorrect application** – Check to make sure you are submitting the correct application.

IV. EFFECTIVE DATE OF DISABILITY RETIREMENT

Establishment of Effective Retirement Date

The effective date of disability retirement is determined by various factors, including:

- The receipt date of the application ([Form FR-13](#) or [Form PR-13](#));
- The last month salary was reported; and
- The employment termination date.⁸

Effective disability retirement dates are established as follows:

- If the member is no longer employed in an FRS covered position, and:
 - If the disability application is not received within 30 days after the member's termination date, the member's effective retirement date will be the first day of the month after the division receives the application.
 - If the member's disability application is received within 30 days after the member's termination date, the member's effective retirement date will be the first day of the month following the member's termination date.
- If the member is currently employed in an FRS covered position, the effective retirement date will be the first day of the month after the division receives the disability application or the first day of the month following the last month for which salary is reported or creditable service is granted.

Effective Date if on Leave of Absence

The effective retirement date may occur before the member's termination date if the member is on a leave of absence without pay before the documented termination date and the division has received the disability application before the termination. However, the member's name cannot be added to the retired payroll until the member terminates employment and the employer submits verification of such termination.

Effective Date for Members on Workers' Compensation

For disability retirement applicants⁹ who are receiving workers' compensation payments, the effective retirement date will not occur before the date the member achieves maximum medical improvement, unless the member terminates employment before reaching maximum medical improvement.

Death before Option Selection

If the member dies before filing an Option Selection Form ([Form FRS-11o](#)), the option selection will default to Option 1 which affords no monthly benefit to the member's beneficiary, unless the member has a qualifying joint annuitant.

⁸ An effective date of retirement cannot be established until a member terminates employment or serves written notice of resignation effective on a date certain and the employer furnishes the division with an official document showing the member's termination date. See Rule 60S-4.0035(3), Florida Administrative Code, (Rules of the Florida Retirement System Pension Plan) for additional information.

⁹ The division must have a disability application on file.

Termination before/after Application– Impact on Survivor Benefits

Members do not have to terminate employment before applying for disability retirement. However, to qualify for disability payments, the member must live past the effective date of retirement. A disability applicant who dies before termination and receives a salary payment of any kind during the month of death will have died before reaching the effective disability retirement date, so disability benefits would not be payable to the survivors (who would be entitled instead to survivor benefits payable in case of an active member's death). (For more on survivor benefits, see Chapter 11.)

Potential Adverse Effect of Delaying Termination for Seriously Ill Members

Some employers may agree to delay termination of members who are seriously or terminally ill until the last few days of life or even to death. While this practice may be well intentioned (for example, to help the member maintain health insurance coverage), if the member dies as an active employee (see Page 10-9), there could be an unintended adverse effect on the benefit available to the surviving beneficiary or beneficiaries.

An applicant for disability benefits must live past the effective disability retirement date to assure that surviving beneficiaries will receive the disability benefits the applicant intended them to receive. If the applicant dies while in active status and the designated beneficiary does not qualify as a joint annuitant (as may be the case if the member has chosen Option 2), no continuing monthly benefit would be payable. In these cases, the employer and member should consider taking action¹⁰ to establish the member's effective retirement date as soon as possible.

For more information, contact the Division of Retirement. You may call the division toll-free at 844-377-1888 or 850-907-6500.

STATUTORY REFERENCE:

Section 121.091(4), Florida Statutes

FRS RULE REFERENCE:

Sections 60S-4.004(3)(b) and 4.007, Florida Administrative Code

¹⁰ If a member's condition is imminently terminal, the member may want to consider terminating employment, or at least having the employer remove him/her from the payroll, to avoid potential adverse consequences.

V. CREDITABLE SERVICE UNIQUE TO DISABILITY RETIREMENT

Credit for a Leave of Absence

If approved for disability retirement, a member on an approved leave of absence is eligible to purchase credit for the leave without returning to work. To determine the cost, the member should submit a completed [Form FR-28](#), FRS Application to Purchase Retirement Credit for a Leave of Absence. The member must notify the division in writing if the member does not intend to purchase the leave.

Workers' Compensation

If approved for disability retirement, a member receiving workers' compensation (WC) that is otherwise creditable under the FRS will receive full credit for the WC at no cost (a member does not have to return to work to get WC credit if approved for disability retirement). Workers' compensation periods must be certified by the agency on [Form WC-1](#), FRS Certification of Workers' Compensation (see Chapter 7, Part III, section F, for details). The division will notify the agency that the member has been approved for disability retirement and that eligible workers' compensation contributions should be reported on the next month's payroll. Agencies that fail to make retirement contributions properly and timely will be charged a delinquent fee of 1 percent per month as provided by law¹¹. This fee cannot be waived and will be charged retroactive to the date WC retirement contributions were required to be paid (this includes workers' compensation periods on and after July 1, 1990). (See Chapter 2, Part I, section C, for details on paying these contributions.)

STATUTORY REFERENCE:

Sections 121.021(17), 121.125, and 121.78(3)(a), Florida Statutes

FRS RULE REFERENCE:

Section 60S-2.002(3), 2.012, 4.004(3)(b) and 6.001(17)(d), (20), and (67), Florida Administrative Code

¹¹ The employer may also be liable for market losses suffered by a member of the FRS Investment Plan as described in Chapter 9, Part XV.

VI. DISABILITY BENEFITS

Regular Disability

If approved for regular disability benefits, a member will be entitled to a minimum benefit of 25 percent of the member's AFC under Option 1. A member's disability benefit is based on actual years of creditable service multiplied by the appropriate percentage value if it is higher than the 25 percent minimum. For a participant of the FRS Investment Plan, creditable service will include all years creditable under both the pension and investment plans.

In-Line-of-Duty Disability

If approved for in-line-of-duty disability benefits, a member of the Special Risk Class or Special Risk Administrative Support Class will be entitled to a minimum benefit of 65 percent of the member's AFC under Option 1¹². Members of all other classes who are disabled in the line of duty are entitled to a minimum benefit of 42 percent of the member's AFC under Option 1. However, a member's disability benefit is based on actual years of creditable service multiplied by the appropriate percentage value if it is higher than the minimum.

Disability retirees may select any of the four benefit options available for service retirement. (See Chapter 9, Part VII, for an explanation of how benefits are paid under each option.) Disability benefits are not reduced for early retirement. However, disability actuarial factors are lower for Options 2, 3, and 4 than regular retirement actuarial factors for these options. A member approved for disability retirement may elect to retire under the disability provisions or, if vested, under the service retirement provisions. A member may request comparison estimates of benefits under both disability and service retirement if the member is close to normal retirement date.

(For information on the taxability of in-line-of-duty disability benefits, please see Chapter 12, Part VI.)

Benefit Formula

Except for the minimum disability benefit as described above, disability benefits are calculated in the same manner as benefits for normal service retirement¹³ (see Chapter 9, Part II, for more on calculating service retirement benefits).

NOTE: See Chapter 11, Part II, for an explanation of how benefits are paid if a member dies after the effective date of retirement but prior to cashing or depositing the first check.

STATUTORY REFERENCE:

Section 121.091(4), Florida Statutes

FRS RULE REFERENCE:

Section 60S-4.007, Florida Administrative Code

¹² Effective July 1, 2000, Special Risk Class members who retire on disability or after July 1, 2000, and who are approved for in-line-of-duty benefits are entitled to receive the higher minimum benefit.

¹³ Disability benefits are not reduced for early retirement.

VII. DENIAL OF APPLICATION FOR DISABILITY RETIREMENT

Right to Appeal the Decision

If a member's application for regular or in-line-of-duty disability benefits is denied, the member may appeal the decision. The member is notified by certified mail of the division's intent to deny disability benefits, including the factual, legal, and policy grounds for the decision. The member then has the opportunity to challenge the intended denial by submitting to the division within 21 days of receiving the notice written objections and additional medical documentation for a reconsideration of the claim. The division has 21 days to respond. If no additional information is submitted, or the information submitted fails to support the member's claim of being totally and permanently disabled, the member is notified by certified mail and advised of the right to appeal the division's decision before the State Retirement Commission.

If the member chooses to appeal the denial to the State Retirement Commission, when eligible, the member may elect to receive a service-based benefit while pursuing the claim through the appeal process. To follow this course, the member would apply for service retirement as described under Chapter 9, Parts IV–VIII, and submit Form SRA-1, Service Retirement Agreement, electing to receive service retirement benefits and acknowledging an understanding of the following:

- If the appeal petition is not timely received by the State Retirement Commission, the division will not honor the Service Retirement Agreement.
- If the application for disability benefits is approved on appeal, the service retirement will be converted to a disability retirement, but the member cannot change the benefit payment option.
- If the appeal is denied, and the member has elected to take an early service retirement, the member cannot cancel or change this election.

The Division of Retirement will enclose an appeal form with the final disability denial letter. The appeal form must be filed with the State Retirement Commission within 21 days of receipt of the final denial letter. Decisions of the State Retirement Commission are considered final agency action; however, the Commission's decision can be appealed to the District Court of Appeal.

Attorney's Fees and Taxable Costs

The State Retirement Commission may award attorney's fees and taxable costs to a member who wins an appeal of the denial of disability retirement benefits. The amount, to be determined by the commission, will be calculated in accordance with statewide uniform guidelines for taxation of costs in civil actions, but may not exceed 50 percent of the member's initial yearly disability retirement benefit.

STATUTORY REFERENCE:

Sections 121.091(4)(d) and 121.23, Florida Statutes

FRS RULE REFERENCE:

Section 60S-4.007(3), (4), and (10)(h) and (i), Florida Administrative Code

VIII. REAPPLICATION

New Medical Evidence Required

A member who is denied disability retirement may reapply at any time, provided that the member produces new medical evidence of a disabling condition that existed when the member terminated employment from an FRS employer. However, if approved, the effective retirement date will be established based on the date the reapplication is received by the division.

IX. REEXAMINATION

Medical Status May Be Reexamined for Continuing Disability

The division may periodically reexamine the medical status of a member who has retired on disability. The reason for this reexamination is to determine whether the member remains totally and permanently disabled¹⁴. In case of reexamination, the Division of Retirement will mail the following forms to the member:

- Form FR-13e, FRS Retiree's Report of Continuing Disability – Completed by the member, this form asks for medical status since the date of disability retirement.
- Form FR-13f, FRS Physician's Report of Reexamination – This form is completed by the member's physician. In certain cases¹⁵ the FRS will reimburse the member for fees the physician charges to complete the report (applies only to reexaminations).

STATUTORY REFERENCE:

Sections 121.091(4)(g) and (h) and 121.591(2)(h) and (k), Florida Statutes

FRS RULE REFERENCE:

Section 60S-4.007, Florida Administrative Code

¹⁴ The division will notify the member of any intent to discontinue benefits. The same appeal rights as apply to original denials apply to reexaminations.

¹⁵ The division will reimburse a member for charges up to \$100 (or a higher amount if preapproved by the division) if the doctor charges for completing the form and the appointment is not covered by health insurance.

X. RECOVERY FROM DISABILITY

Termination of Benefits

Florida law does not permit an FRS member to receive disability benefits while employed. If a disabled member returns to any type of employment with any type of employer, FRS or non-FRS, the Division of Retirement must be notified immediately. Upon reemployment or recovery, disability benefits will be terminated.

Alternatives after Recovery from Disability

A recovered FRS Pension Plan member or hybrid member may elect to apply for regular service retirement at termination, if eligible. (See Chapter 7, Part III, section J, for information on buying service credit for the time the member was retired on disability.) A member of the FRS Investment Plan may elect to receive a distribution of any remaining benefits from the member's individual account (see Chapter 9, Part XV). If a recovered FRS member is reemployed in a covered position and is disabled again while working with an FRS employer, the member can reapply for disability retirement. If the member is again disabled and approved for disability retirement, the member's Option 1 monthly retirement benefit will be at least as much as the Option 1 monthly benefit calculated at the time of the prior disability, plus any applicable cost-of-living increases (see Page 10-15), up to the time the benefit was terminated upon the member's reemployment.

STATUTORY REFERENCE:

Section 121.091(4), Florida Statutes

FRS RULE REFERENCE:

Section 60S-4.007, Florida Administrative Code

XI. COST-OF-LIVING INCREASE

Annual COLA

Like service retirees of the FRS Pension Plan, FRS disability retirees receive a cost-of-living adjustment (COLA) in their July payment each year¹⁶. The first COLA after retirement is prorated for retirees who have not been retired for a full year (12 calendar months as of June). The COLA for retirements effective before July 1, 2011, is 3 percent per year. The COLA formula for retirees with an effective retirement date on or after July 1, 2011, will be the sum of the pre-July 2011 service credit divided by the total service credit earned multiplied by 3 percent. Each Pension Plan member with an effective retirement date of August 1, 2011, or after will have an individual COLA factor for retirement. FRS Pension Plan members initially enrolled on or after July 1, 2011, will not have a COLA after retirement.

STATUTORY REFERENCE:

Section 121.101, Florida Statutes

¹⁶ The increase is included in the benefit payable on the last working day of July.

XII. HEALTH INSURANCE SUBSIDY (HIS)

Application for HIS

If a member has health insurance coverage after retirement, the member may apply for a health insurance subsidy to help pay the cost of this insurance. Eligible retirees or beneficiaries will receive an extra \$5 per month for each year of service credit the member had at retirement. Since July 1, 2001, the payments are at least \$30, but no more than \$150 per month. (See Chapter 12, Part II, for more on the health insurance subsidy.)

STATUTORY REFERENCE:

Section 112.363, Florida Statutes

FRS RULE REFERENCE:

Section 60S-4.020, Florida Administrative Code

XIII. DISABILITY COVERAGE FOR INVESTMENT PLAN AND HYBRID MEMBERS

Under the FRS Investment Plan, employer and employee contributions are made to the participant's investment account, as directed by the participant. The retirement benefit available under this plan is the vested sum that has accumulated in this account when the member terminates employment and elects to take distribution of funds. However, if an Investment Plan member (or a hybrid member of both plans) becomes totally and permanently disabled, lifetime monthly disability benefits may be available in lieu of this account balance¹⁷.

Funding of Disability Coverage

Disability coverage was established by law for members of the FRS Investment Plan and the program is funded by means of the monthly retirement contributions paid by the employer and employee on behalf of each Investment Plan member, plus the transfer of the total value of the disabled member's individual investment account to the disability account of the FRS Pension Plan. For any participant who elected to retain pension plan credit under the hybrid plan, the present value of the member's pension benefit is also transferred to the disability account of the FRS Trust Fund.

Administration of Disability Program

The division administers the disability program for the FRS Investment Plan, so any Investment Plan member who wishes to receive disability benefits under this plan, must apply for disability benefits with the division as described in this chapter.

¹⁷ FRS Investment Plan members who become totally and permanently disabled and are eligible for disability retirement will have a choice between retiring and receiving their Investment Plan accumulations or applying for disability retirement and receiving lifetime monthly disability benefits under the FRS Pension Plan.

Disability Choices for Investment Plan Members

A member of the FRS Investment Plan who becomes totally and permanently disabled and is eligible for disability retirement may elect to:

1. Terminate employment and establish a method for distribution of existing Investment Plan Account balance, as provided under applicable plan documents; or
2. Apply for disability benefits under the FRS Pension Plan and, if approved, receive a lifetime disability benefit as provided by the FRS Pension Plan, including annual cost-of-living increases. Investment Plan members are subject to the same eligibility and disability standards¹⁸ as apply to members of the Pension Plan. Upon being approved for disability, the member's total Investment Plan account balance will be transferred to the disability account of the FRS Trust Fund and the member will become a member of the FRS Pension Plan as of the effective disability retirement date (see Page 10-9) and will remain a member of the FRS Pension Plan for as long as disability benefits are payable (see recovery from disability, Page 10-15).

Application Process

To apply for disability benefits, an FRS Investment Plan member must submit forms the same or similar to those required for FRS Pension Plan applicants (see Page 10-6). Upon approval of the member's disability application, the division will notify Alight Solutions¹⁹ to transfer the member's total individual plan accumulations to the FRS Trust Fund disability account where the funds will be applied toward the payment of the member's disability benefit. In addition, if the participant is a hybrid member who retained credit under the Pension Plan at the time of transfer to the Investment Plan, the present value of such service credit will also be transferred to the FRS Trust Fund disability account.

Cancellation Opportunity

The applicant may cancel the application for disability retirement, as long as the cancellation request reaches the division before a disability retirement warrant has been deposited, cashed, or received by direct deposit. Upon timely cancellation, the member's transfer to the FRS Pension Plan is nullified, the member's enrollment in the Investment Plan is reinstated, and all transferred funds will be returned to the Investment Plan member's investment account(s).

Disability Benefit

For FRS Investment Plan or hybrid members who are approved for disability benefits:

- Service credit on which the disability benefit is based will include all years of creditable service²⁰ in the Pension Plan and/or the Investment Plan.
- The benefit will be calculated in the same manner as for FRS Pension Plan members (see Page 10-12).
- The effective date of retirement will be determined in the same manner as for FRS Pension Plan disability retirees (see Page 10-9).

¹⁸ However, Investment Plan members cannot purchase optional service credit (including credit for a leave of absence).

¹⁹ Alight Solutions is a contractual third party administrator for the FRS Investment Plan.

²⁰ Note that Investment Plan members cannot purchase optional service credit (including credit for a leave of absence).

Recovery from Disability

Whenever a participant of the FRS Investment Plan retires on disability and later recovers from the disability, the participant will again become a compulsory member of the Investment Plan. The opening account balance, if any, under the Investment Plan will be the difference between the vested portion of the member's transferred account balance²¹ and the total benefits the member received as a disability retiree. The Investment Plan member's distribution options will be as they were before the disability.

If the recovered recipient was a hybrid member²² before becoming disabled, the recipient will again become a compulsory hybrid member²³. The service credit the hybrid member maintained under the FRS Pension Plan will be reinstated in full at no cost to the member. Upon application for retirement, the member will be entitled to a service benefit for the associated service.

Handling of Unvested and Unpaid Amounts after Recovery

Upon recovery from disability, any remaining unvested and unpaid amounts of the member's transferred Investment Plan account will be held in a suspense account and are forfeitable after five years if the member does not return to covered employment and become vested.

STATUTORY REFERENCE:

Section 121.591, Florida Statutes

²¹ Vested and nonvested transferred amounts are separately accounted for.

²² A hybrid member is a member of the FRS Pension Plan who elected to transfer to the FRS Investment Plan for future service, but retained credit under the FRS Pension Plan for pre-transfer service.

²³ The hybrid member's FRS Investment Plan account will be reestablished as described above for Investment Plan members.